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OGC/B-7858(a)

15 October 1957

MEMORANDUM FOR: Chief, Technical Accounting Staff

SUBJECT : Combined Actual Expense and Travel Authorization

1. This is in regard to your request for our views on the proposal that personnel in travel status be reimbursed for travel expenses by a combination of actual expense reimbursement and a per diem allowance. We understand that under your proposition an individual would be reimbursed for hotel accommodations at actual cost, while at the same time receiving a per diem allowance to cover meals and incidentals, minus a 40% deduction. You indicate that the reason for this is the inadequacy of the present per diem rates in relation to the cost of reasonable hotel accommodations.

2. The authority to pay subsistence expenses of Government employees is provided by the Travel Expense Act of 1949, as amended (5 U.S.C.A. 834). This statute provides for a per diem allowance "not to exceed" (a) \$12 within the continental United States, (b) rates established by the Director of the Bureau of the Budget for travel beyond the United States, or (c) \$25, or the actual expense, whichever is the lesser, for travel within the United States involving unusual circumstances. Thus it should be noted that the statute is quite specific in particularizing the rates that may be paid and under what circumstances. With particular reference to the actual expense authority it should be noted further that it is restricted to travel within the United States and that it may be authorized only "where due to the unusual circumstances of the travel assignment", (the maximum per diem allowance (\$12)) "would be much less than the amount required to meet the actual and necessary expenses of the trip" (Section 834). An examination of the legislative history indicates that this authority was intended for use in a very limited number of situations; and that it may not be considered authority of general applicability for actual expense reimbursement, even within the United States. As evidence of its limited application, see

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3. Your proposal of combining actual expenses with per diem would be an unauthorized deviation from the Standardized Government Travel Regulations promulgated by the Director of the Bureau of the Budget under the authority vested in him by Section 840 of the Act. Section 6.1 of the SGTR's specifically states that the per diem allowance includes all charges for lodging. You would have it cover all except lodging. That you would deduct 40%, we do not believe meets the problem. Since the very nature of the per diem allowance, in whatever amount, is such that the cost of lodging is included, coupling it with actual expense reimbursement for hotel accommodations would, in essence, be duplicate reimbursement for the same item.

4. While it cannot be gainsaid that the travel allowances which the Congress in its wisdom has prescribed are inadequate, we do not believe that this gives rise to a problem unique with this Agency. We would suppose that employees of other departments have also learned to their chagrin that travelling for the Government inevitably results in the expenditure of personal funds. [REDACTED]

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5. Accordingly, it is our opinion that the implementation of your general proposal for combining actual expense reimbursement with per diem for travel within or outside the United States would be legally objectionable. This is not to say, of course, that the Agency may not for reasons of cover or security supplement allowances. But in such instances the prime consideration is always the Agency's needs or requirements--not those of the employee.

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Assistant General Counsel

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